

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

DEFENDANT'S MOTION TO FILE POST-HEARING BRIEF OUT OF TIME

Comes the Defendant, Vicente Corona, by and through counsel, and respectfully requests that this Honorable Court authorize the filing out-of-time of the defendant's post-hearing brief (Doc. 522) in support of the defendant's objections to the applicability of enhanced penalties under 21 U.S.C. §§ 841 and 851 (Docs. 492, 493).

The defendant filed objections to the government's notice of intent to seek a mandatory minimum life sentence (Doc. 492). At the time of filing the objections on August 19, 2008, the defendant had no discovery of the specific documents the government would use to attempt to meet its burden of proof with respect to the prior alleged convictions in its notice. The government filed a response to the defendant's objections on October 23, 2008 (Doc. 496).¹ With its response, the government provided the defendant with a number of documents concerning the alleged convictions upon which it would rely at sentencing. (Doc. 496, 499).

The Court set a hearing for November 17, 2008. Subsequently, the government furnished additional documents on October 27 (Doc. 500), November 6 (Docs. 503 & 504), November 13

¹ The government's response was filed out of time, and the Court granted the government's motion to accept the late-filed response. (Docs. 497, 501).

(Doc. 505), and before the hearing on the morning of November 17 (Doc. 506). The hearing lasted for several hours, and the government presented the testimony of a number of witnesses and introduced several documents (Docs. 507, 508). At the conclusion of the hearing, the Court granted a request to allow the parties to file post-hearing briefs addressing the documents provided and evidence presented. The defendant's post-hearing brief was due to be filed on Friday, December 19, 2008. (Doc. 517).

Undersigned counsel for the defendant diligently pursued completion of a post-hearing brief, to include working weekends and evenings, but was unable to meet the deadline. Defense counsel had to spend a significant amount of time researching the issues in the brief, which deal with interpretation of both California and federal law, as well as studying and interpreting the documents provided. Due to the number and complexity of the issues, counsel was unable to complete the brief within the scheduled timeframe. The brief has now been completed, and the defendant respectfully requests permission to file the brief two business days out of time on Tuesday, December 23, 2008.

This motion is not submitted due to procrastination, unnecessary delay, or some other improper reason, but rather so that counsel could thoroughly address the issues pending before the Court concerning the mandatory life sentence sought by the government. Absent permission to file the post-hearing brief out of time, counsel will be unable to provide Mr. Corona with both the zealous representation and effective assistance of counsel guaranteed by U.S. Const. Amend. VI and Tenn. Sup. Ct. R. 8, RPC.

Respectfully submitted,

RITCHIE, DILLARD & DAVIES, P.C.

/s/Stephen Ross Johnson

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CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2008, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U. S. mail. Parties may access this filing through the Court's electronic filing system.

/s/Stephen Ross Johnson

STEPHEN ROSS JOHNSON